

IN THE CHANCERY COURT FOR SUMNER COUNTY, TENNESSEE  
AT GALLATIN

PENNY WARREN and PAMELA FOTE  
104 Countryside Drive  
Hendersonville, Tennessee 37075

Plaintiffs,

Vs.

NATIONWIDE MUTUAL FIRE  
INSURANCE COMPANY,

Defendant.

No. 2007C-321

FILED REC  
SUMNER CO. CHANCERY COURT

DEC 27 2007

BY: [Signature]  
CIVIL/DOMESTIC DIV.  
BRENDA M. PAGE, D.E.N.  
DEPUTY CLERK & MASTER

**COMPLAINT FOR DECLARATORY JUDGMENT  
AND BREACH OF CONTRACT**

COMES NOW the plaintiffs, PENNY WARREN and PAMELA FOTE, and for  
cause of action against Defendant, NATIONWIDE MUTUAL FIRE INSURANCE  
COMPANY (hereinafter "Defendant" or "NATIONWIDE") alleging as follows:

**Parties and Jurisdiction**

1. Plaintiffs are citizens and residents of Sumner County, Tennessee.
2. Defendant, NATIONWIDE, is engaged in a broad range of insurance and insurance related activities in the United States and is licensed to provide insurance in the State of Tennessee. Defendant sold a policy of insurance to Plaintiffs and, at all relevant times, conducted business in this State.
3. The residence which is the subject of this litigation is located at 104 Countryside Drive, Hendersonville, Sumner County, Tennessee.
4. Defendant NATIONWIDE'S agent for service of process is the Tennessee Commissioner of Commerce & Insurance, 500 James Robertson Parkway, Nashville, Tennessee.

**EXHIBIT 1**

5. This Court has jurisdiction over the present matter pursuant to T.C.A. §§ 29-14-102 and 29-14-103.

6. This Court has jurisdiction over the parties. Venue is proper in Sumner County, Tennessee.

#### Facts

7. At all times material to this action, Defendant NATIONWIDE was and still is, a corporation licensed under the laws of the State of Tennessee to write homeowners' insurance policies.

8. Prior to April 7, 2006, Defendant made a written homeowners' insurance policy on behalf of Plaintiffs.

9. Defendant NATIONWIDE delivered a policy of insurance to Plaintiffs. The insurance policy number was 63 41 MP 077135 and was effective prior to April 7, 2006. A true copy of the Insurance Declarations and certain endorsements are attached as Exhibit A.

10. Plaintiffs paid Defendant NATIONWIDE through its agent Mark Pody, all premiums on the policies.

11. On April 7, 2006 a tornado passed through the area in which plaintiffs' home is located.

12. While plaintiffs' residence was not directly hit by the tornado, plaintiffs began to experience damage and problems with their residence which were not present prior to the tornado.

13. After April 7, 2006, but during April 2006, Defendant NATIONWIDE was made aware of a claim of Plaintiffs for coverage under said policy arising out of

damage from a tornado which struck near the plaintiffs' home on April 7, 2006 in Hendersonville, Sumner County, Tennessee.

14. The policy of insurance issued by defendant NATIONWIDE provides in pertinent part at Section 1:

Property Coverages	Limits of Liability
COVERAGE-A-DWELLING	\$ 216,600

Further, said policy provides at page B1:  
COVERAGE A – DWELLING

We cover:

1. the dwelling on the residence premises used mainly as your private residence, including attached structures and attached wall-to-wall carpeting.

15. Defendant NATIONWIDE has denied coverage for the claim made by Plaintiffs resulting from the tornado of April 7, 2006, advising Plaintiffs that the damages and changes they have observed in their residence since the tornado are not in fact the result of the tornado.

16. In violation of its contractual provisions, Defendant NATIONWIDE has failed to provide coverage in the contractual amounts to Plaintiffs regarding the damage sustained in relation to the tornado of April 7, 2007.

**Count I Declaratory Judgment – NATIONWIDE**

17. Paragraphs 1 through 16 are hereby incorporated by reference as though set forth herein.

18. Defendant, NATIONWIDE issued a policy of insurance to Plaintiffs which was in effect on April 7, 2006.

19. Defendant NATIONWIDE, through its agent, Mark Pody, received notice of a covered claim from Plaintiffs on or about May of 2006 which was during the policy period.

20. As a result of Plaintiffs advising Defendant NATIONWIDE via its agent, Mark Pody, the notice provisions under the insurance contract have been satisfied.

21. Defendant NATIONWIDE has denied coverage relating to Plaintiffs claims, all of which is in violation of the terms of the contract of insurance between Plaintiffs and Defendant NATIONWIDE.

22. Plaintiffs seek declaration that they are entitled to coverage of the damages sustained in relation to the April 7, 2006 tornado by Defendant NATIONWIDE insomuch as Plaintiffs have satisfied all prerequisites under the insurance contract.

**Count II. Breach of Contract – Defendant NATIONWIDE**

23. Paragraphs 1 through 22 are hereby incorporated by reference as though set forth herein.

24. Defendant NATIONWIDE breached its contract of insurance with Plaintiffs by denying coverage and by failing to provide coverage up to the sum of \$216,600 to Plaintiffs.


25. Plaintiffs have suffered damages by Defendant NATIONWIDE'S breach.

**Prayer for Relief**

**WHEREFORE**, Plaintiffs respectfully request this Honorable Court the following relief:

1. That process issue and Defendant NATIONWIDE be required to answer within the time allowed by law;
2. That the damages sustained to Plaintiffs' residence be declared to be covered under the Plaintiffs' insurance policy with Defendant, NATIONWIDE, which was in effect at the time of the tornado on April 7, 2006;
3. That Plaintiffs be awarded a judgment for breach of contract for all damages sustained as a result of Defendant's, NATIONWIDE, breach of contract; and
4. That Plaintiffs may have such other and further relief as may be warranted by their cause and ordered by this Court.

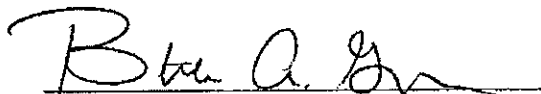
Respectfully submitted;



Beth A. Garrison  
Attorney for Plaintiffs  
103 Bluegrass Commons Blvd.  
Hendersonville, TN 37075  
(615)824-3761; BPR #24434

**COSTS BOND**

We are surety for costs of this cause.



Beth A. Garrison

# Exhibit A

FILED ☒ REC  
SUMNER CO. CHANCERY COURT  
DEC 27 2007  
CIVIL DOMESTIC DIV  
BRENDAN PAGE, CLM  
CLERK & MASTER

01594000002038

63 41 MP 077135



# HOMEOWNER POLICY DECLARATIONS

Non-Assessable

Page 1 of 3

These Declarations are a part of the policy named above and identified by policy number below. They supersede any Declarations issued earlier. Your Homeowner Policy will provide the insurance described in this policy in return for the premium and compliance with all applicable policy provisions. See policy for details regarding the **other coverages** and **additional coverage options**.

**Policy Number:**  
63 41 MP 077135

**Issued:**  
JUL 27, 2007

**Policyholder:**  
(Named Insured)  
PENNY WARREN  
PAM FOTE  
104 COUNTRY SIDE DR  
HENDERSONVILLE TN 37075-9689

**Policy Period From:**

MAR 12, 2007 to MAR 12, 2008 but only if the required premium for this period has been paid, and only for annual renewal periods if premiums are paid as required. Each period begins and ends at 12:01 A.M. standard time at the Residence Premises.

## Residence Premises Information:

104 COUNTRY SIDE DR  
HENDERSONVILLE  
TN 370759689

ONE FAMILY  
FRAME DWELLING  
YEAR OF CONSTRUCTION 1989

PROTECTION CLASS 4  
RATED PROTECTION CLASS 4  
IN CITY OR LISTED AREA  
WITHIN 1000 FT FROM HYDRANT  
WITHIN 5 MILES FROM FIRE DEPT  
PROTECTION TERRITORY 021

## SECTION I

Property Coverages	Limits Of Liability	Deductible: \$500 ALL PERILS
COVERAGE-A-DWELLING	\$ 216,600	In case of a loss under Section I, we cover only that part of each loss over the deductible stated.
COVERAGE-B-OTHER STRUCTURES	\$ 21,660	
COVERAGE-C-PERSONAL PROPERTY	\$ 160,835	
COVERAGE-D-LOSS OF USE	\$ 216,600	

## SECTION II

Liability Coverages	Limits Of Liability
COVERAGE-E-PERSONAL LIABILITY FOR EACH OCCURRENCE: PROPERTY DAMAGE AND BODILY INJURY	\$ 300,000
COVERAGE-F-MEDICAL PAYMENTS TO OTHERS EACH PERSON	\$ 1,000

UNITED STATES DEPARTMENT OF JUSTICE

UNITED STATES DEPARTMENT OF JUSTICE

DEPARTMENT OF  
JUSTICE

7006 2760 0002 5573 6302

05 940  
COPIES 5888 34833 0018  
MAILED FROM ZIP CODE 37243

NATIONWIDE MUTUAL FIRE INSURANCE CO. OF  
800 SOUTH GAY STREET, STE 2001, N. C. COI  
KNOXVILLE, TN 37928-0710  
7006 2760 0002 5573 6302



**CT CORPORATION**  
A WoltersKluwer Company

**Service of Process  
Transmittal**

01/10/2008

CT Log Number 512966285



**TO:** Randolph Wiseman  
Nationwide Mutual Insurance Company  
One Nationwide Plaza 1-38-11  
Columbus, OH 43215-2220

**RE: Process Served in Tennessee**

**FOR:** Nationwide Mutual Fire Insurance Company (Domestic State: OH)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Penny Warren and Pamela Fote, etc., Pltfs. vs. Nationwide Mutual Fire Insurance Company, Dft.

**DOCUMENT(S) SERVED:** Letter, Summons, Complaint, Exhibit A

**COURT/AGENCY:** Sumner County Chancery Court, TN  
Case # 2007C321

**NATURE OF ACTION:** Insurance Litigation - Policy benefits claimed for property damage due to a tornado

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Knoxville, TN

**DATE AND HOUR OF SERVICE:** By Certified Mail on 01/10/2008 postmarked on 01/08/2008

**APPEARANCE OR ANSWER DUE:** Within 30 days from the date this summons is served upon you

**ATTORNEY(S) / SENDER(S):** Beth A. Garrison  
103 Bluegrass Commons Boulevard  
Hendersonville, TN 37075  
615-824-3761

**REMARKS:** Process served/received by the Insurance Commissioner on 01/03/2008, and mailed to CT Corporation System on 01/10/2008.

**ACTION ITEMS:** CT has retained the current log, Retain Date: 01/10/2008, Expected Purge Date: 01/15/2008  
Image SOP - Page(s): 11

**SIGNED:** C T Corporation System  
**ADDRESS:** 800 S. Gay Street  
Suite 0221  
Knoxville, TN 37929-9710  
**TELEPHONE:** 865-342-3522

Page 1 of 1 / EF

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.



STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TN 37243-1131

January 7, 2008

Nationwide Mutual Fire Insurance Company  
800 South Gay Street, Ste 2021, % C T Corp.  
Knoxville, TN 37929-9710  
NAIC # 23779

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7006 2760 0002 9673 6302  
Cashier # 1110

Re: Penny Warren & Pamela Fote V. Nationwide Mutual Fire Insurance Company

Docket # 2007C-321

To Whom It May Concern:

We are enclosing herewith a document that has been served on this department on your behalf in connection with the above-styled matter.

I hereby make oath that the attached Breach Of Contract Complaint was served on me on January 3, 2008 by Penny Warren & Pamela Fote pursuant to Tenn. Code Ann. § 56-2-504 or § 56-2-506. A copy of this document is being sent to the Chancery Court of Sumner County, TN.

Brenda C. Meade  
Designated Agent  
Service of Process

Enclosures

cc: Chancery Court Clerk  
Sumner County  
Public Square, 3Rd Floor  
Gallatin, Tn 37066

STATE OF TENNESSEE 18th JUDICIAL DISTRICT CHANCERY COURT	<h1 style="margin: 0;">SUMMONS</h1>	CASE FILE NUMBER <div style="font-size: 1.2em; font-family: cursive;">2007C-321</div>
<b>PLAINTIFF</b> PENNY WARREN and PAMELA FOTE	<b>DEFENDANT</b> NATIONWIDE MUTUAL FIRE vs. INSURANCE COMPANY	
<b>TO: (NAME &amp; ADDRESS OF DEFENDANT)</b>  NATIONWIDE MUTUAL FIRE INSURANCE COMPANY <u>Please serve through the Commissioner of</u> <u>Commerce &amp; Insurance</u> 500 James Robertson Parkway Nashville, TN		
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <div style="display: inline-block; vertical-align: middle;"> <b>ADA</b>            FOR ASSISTANCE CALL            615-451-6023         </div> </div>		FILED <input checked="" type="checkbox"/> REC <input checked="" type="checkbox"/> SUMNER CO. CHANCERY COURT  <div style="font-size: 1.2em; font-weight: bold;">DEC 27 2007</div> <div style="font-size: 0.8em;">             CIVIL DOMESTIC BK              BRENDA M. PAGE, C&amp;M              BY:               DEPUTY CLERK &amp; MASTER           </div>
List each defendant on a separate summons.		
YOU ARE HEREBY SUMMONED TO DEFEND A CIVIL ACTION FILED AGAINST YOU IN CHANCERY COURT, SUMNER COUNTY, TENNESSEE. YOUR DEFENSE MUST BE MADE WITHIN THIRTY (30) DAYS FROM THE DATE THIS SUMMONS IS SERVED UPON YOU. YOU ARE DIRECTED TO FILE YOUR DEFENSE WITH THE CLERK OF THE COURT AND SEND A COPY TO THE PLAINTIFF'S ATTORNEY AT THE ADDRESS LISTED BELOW. IF YOU FAIL TO DEFEND THIS ACTION BY THE ABOVE DATE, JUDGMENT BY DEFAULT CAN BE RENDERED AGAINST YOU FOR THE RELIEF SOUGHT IN THE COMPLAINT.		
Attorney for plaintiff: (Name, address & telephone number) <b>Beth A. Garrison</b> <b>Attorney at Law</b> <b>103 Bluegrass Commons Boulevard</b> <b>Hendersonville, TN 37075</b> <b>Telephone: (615) 824-3761, #201</b>	<b>DATE ISSUED &amp; ATTESTED</b> <div style="font-size: 1.5em; font-family: cursive; margin-top: 10px;">December 27, 2007</div> <b>BRENDA M. PAGE, Clerk &amp; Master</b> BY: <div style="text-align: right; margin-top: 10px;">Deputy Clerk &amp; Master</div>	
<b>NOTICE OF DISPOSITION DATE</b>		
To expedite cases, the Court may take reasonable measures to purge the docket of old cases where the cases have been dormant without the cause shown for an extended time.		
<b>CERTIFICATION</b>		
I, Brenda M. Page, Clerk and Master of the Chancery Court of Sumner County, Tennessee, do certify this to be a true and correct copy of the original summons issued in this case. <b>BRENDA M. PAGE, CLERK AND MASTER</b> BY:		
<b>TO THE SHERIFF:</b>  Please execute this summons and make your return within thirty days of issuance as provided by law.	<b>DATE RECEIVED</b>  <div style="border: 1px solid black; height: 40px; width: 100%;"></div> <b>Sheriff</b>	

Submit three copies: service copy, defendant's copy, file copy.

QPC 10-88-5